

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

KEITHEN O. JOHNSON, #1068770,

Plaintiff,

v.

GREGG COUNTY JAIL,

Defendant.

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Case No. 6:20-cv-490-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Keithen O. Johnson, a former prisoner of the Texas Department of Criminal Justice (TDCJ) proceeding pro se, filed this section 1983 action. After the Northern District of Texas transferred the complaint to this Court in August 2020, Plaintiff's complaint was referred to United States Magistrate Judge, the Honorable K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On September 29, 2020, Judge Mitchell issued a Report recommending that Plaintiff's civil action be dismissed, without prejudice, for Plaintiff's failure to comply with two orders of the Court and for Plaintiff's failure to prosecute (Docket No. 11). Judge Mitchell found that mail sent to Plaintiff from this Court was returned as "undeliverable," with a notation that Plaintiff had been released from TDCJ custody. A copy of this Report was sent to Plaintiff at his last-known address, with an acknowledgment card. However, to date, Plaintiff has neither filed objections to the Report nor communicated with the Court.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct.

Accordingly, it is **ORDERED** that the Report of the United States Magistrate Judge, (Docket No. 11), is **ADOPTED** as the opinion of the Court. Further, it is **ORDERED** that this civil proceeding is **DISMISSED**, without prejudice, for Plaintiff's failure to comply with two orders of the Court and Plaintiff's failure to prosecute. Finally, it is **ORDERED** that any and all motions which may be pending in this civil action are hereby **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **26th** day of **October, 2020**.

A handwritten signature in black ink, appearing to read "Jeremy D. Kernodle", is written over a horizontal line.

JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE